(2000) 04 GUJ CK 0090

In the Gujarat High Court

Case No : Special Civil Application No. 4317 of 1987

Lodha Mansing Harpal — APPELLANT

Vs

State of Gujarat and Another — RESPONDENT

Date of Decision : 28-04-2000

Acts Referred:

Bombay Land Revenue Code, 1879 — Section 214
Gujarat Land Revenue Rules, 1972 — Rule 2

Citation : AIR 2001 Guj 15

Hon'ble Judges : R.R. Tripathi, J

Bench : Single Bench

Advocate : D.F. Amin, for the Appellant; Digant P. Joshi, Asstt. Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

R.R. Tripathi, J.—The present petition is filed by the petitioner against an order dated 27-4-1987 passed by the Secretary (Appeal), Revenue Department, Government of Gujarat (Annexure ''D''). It is the contention of Mr. Amin, the learned Advocate for the petitioner that the said order is passed on the basis that the petitioner had not mentioned the purpose for which "Non-Agricultural" (NA) permission was sought for. On that short ground, the NA permission granted by the subordinate authorities came to be cancelled by the impugned order dated 27-4-1987.

2. Mr. Amin could point out to this Court that in response to the show cause notice dated 9-12-1986, Annexure ''B'' to this petition, the petitioner had filed a reply in February 1987, Annexure ''C'' to this petition. In that reply, the petitioner had set out all the details. This particular point regarding the purpose for which NA permission was prayed for is also mentioned. Mr. D.F. Amin, the learned Advocate for the petitioner has pointed out that even in the order passed by the Taluka Panchayat dated 16-9-1995, which is produced at Annexure ''A'', it is clearly mentioned in para 14 that the NA permission is granted for the purpose of

putting up cottage Industries. In light of that particular mention in the order granting NA permission, the impugned order passed by the authority is clearly vitiated as it is passed without proper application of mind.

2A. In light of these facts, the order in question dated 27th April, 1987 is hereby quashed and set aside. However, it is made clear that this quashing and setting aside of the impugned order will not be a bar to the respondent-authorities to pass a fresh order, if any legal ground is available to them.

3. With the aforesaid observations the petition is allowed. Rule is made absolute with no order as to costs.